

**U.S. District Court
Eastern District of Kentucky (Covington)
CIVIL DOCKET FOR CASE #: 2:13-cv-00204-DLB-CJS**

Eder et al v. West Chester Medical Center et al
Assigned to: Judge David L. Bunning
Referred to: Magistrate Judge Candace J. Smith
Case in other court: Boone Circuit Court, 13-CI-1028
Cause: 28:1441 Petition for Removal- Personal Injury

Date Filed: 11/15/2013
Date Terminated: 10/31/2014
Jury Demand: Plaintiff
Nature of Suit: 362 Personal Inj. Med.
Malpractice
Jurisdiction: Diversity

Plaintiff

Mona Eder
Parties realigned per State Court Order

represented by **Christopher D. Roach**
Eric Deters & Partners, P.S.C. – Independence
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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Markesbery & Richardson Co., L.P.A. – KY
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TERMINATED: 01/30/2014

Robert A. Winter , Jr.
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ATTORNEY TO BE NOTICED

Plaintiff

Westchester Medical Center
*Party terminated as plaintiff per State Court
Order*
TERMINATED: 11/15/2013

represented by **Bill J. Paliobeis**
Frost Brown Todd LLC – Cincinnati
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3300 Great American Tower
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ATTORNEY TO BE NOTICED

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Frost Brown Todd LLC – Louisville

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Louisville, KY 40202
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TERMINATED: 02/05/2014
ATTORNEY TO BE NOTICED

V.

Defendant

West Chester Medical Center
Parties realigned per State Court Order

represented by **Michael E. Nitardy**
Frost, Brown, Todd, LLC – Florence
7310 Turfway Road
Suite 210
Florence, KY 41042
859-817-5900
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Bill J. Paliobeis
(See above for address)
ATTORNEY TO BE NOTICED

James Borchard Metzger
(See above for address)
TERMINATED: 02/05/2014
ATTORNEY TO BE NOTICED

Defendant

Mona Eder
Party terminated as defendant per State Court Order
TERMINATED: 11/15/2013

represented by **Jesse Alexander Shore**
(See above for address)
TERMINATED: 01/30/2014

Defendant

Abubakar Aitq Durrani, M.D.

Defendant

The Center for Advanced Spine Technologies, Inc.

Defendant

UC Health

represented by **Michael E. Nitardy**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Bill J. Paliobeis

(See above for address)

ATTORNEY TO BE NOTICED

Counter Claimant

Mona Eder

represented by **Jesse Alexander Shore**

(See above for address)

TERMINATED: 01/30/2014

V.

Counter Defendant

West Chester Medical Center

represented by **Michael E. Nitardy**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Bill J. Paliobeis

(See above for address)

ATTORNEY TO BE NOTICED

James Borchard Metzger

(See above for address)

TERMINATED: 02/05/2014

ATTORNEY TO BE NOTICED

Counter Defendant

UC Health

represented by **Michael E. Nitardy**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Bill J. Paliobeis

(See above for address)

ATTORNEY TO BE NOTICED

Counter Defendant

Dr. Atiq Durrani

Counter Defendant

**The Center for Advanced Spine
Technologies, Inc.**

Date Filed	#	Docket Text
11/15/2013	<u>1</u>	NOTICE OF REMOVAL from Boone Circuit Court, case number 13-CI-1028, filed by West Chester Medical Center. (Filing fee \$400; receipt number 0643-2802507) (Attachments: # <u>1</u> Exhibit A – State Court Record, # <u>2</u> Civil Cover Sheet, # <u>3</u> Case Assignment)(RCB) (Entered: 11/18/2013)

11/15/2013	<u>2</u>	MEMORANDUM IN SUPPORT of Removal <u>1</u> filed by West Chester Medical Center. (RCB) (Entered: 11/18/2013)
11/15/2013	<u>3</u>	MAGISTRATE JUDGE CANDACE SMITH chosen by random selection to handle matters that may be referred in this case. (RCB) (Entered: 11/18/2013)
11/15/2013	<u>4</u>	STANDING REFERRAL ORDER: 1) Case referred to Magistrate Judge at Covington to supervise discovery and pretrial proceedings. Unless otherwise ordered by the Court, case will revert back to undersigned to hold the final pretrial conference and trial. 2) Mag. Judge authorized to conduct all pretrial/status conferences, to hold hearings as may be required and to rule on non-dispositive motions. Dispositive motions and motions in limine will be referred to the undersigned. Final pretrial conference and trial will also be before the undersigned, unless the parties agree to a trial by a Mag. Judge. 3) Discovery disputes to be resolved in following manner: (1) Parties to meet/confer in an attempt to resolve disputes; (2) If unable to resolve disputes, they shall attempt to resolve their disagreement by telephone conference w/ Mag. Judge; (3) If still unable to resolve their disputes, they may file appropriate written motions with the court. Signed by Judge David L. Bunning on 1/13/2011. (RCB)cc: COR (Entered: 11/18/2013)
11/15/2013	<u>1</u>	STATE COURT ORDER: West Chester Medical Center, having moved this Court for an Order allowing its voluntary dismissal of claims asserted against Mona Eder, and Court being duly advised does, therefore, pursuant to Rule 41.01 (2) of Ky Rules of Civil Procedure, and its discretionary powers, order as follows: West Chester Medical Center's claims against Mona Eder are hereby DISMISSED and parties are realigned with Mona Eder as Plaintiff, and West Chester as Defendant. Signed by Boone Circuit Judge James R. Schrand. (RCB) See DE <u>1</u> , Exhibit A, for pdf document. (Entered: 11/18/2013)
11/15/2013	<u>1</u>	STATE COURT MOTION for Joinder of Additional Parties by Mona Eder. Motions referred to Candace J. Smith. (RCB) See DE <u>1</u> , Exhibit A, for pdf document. (Entered: 11/18/2013)
11/15/2013	<u>1</u>	STATE COURT ANSWER to Complaint by Mona Eder. (RCB) See DE <u>1</u> , Exhibit A, for pdf document. (Entered: 11/18/2013)
11/15/2013	<u>1</u>	STATE COURT COUNTERCLAIM of Defendant Mona Eder. (RCB) See DE <u>1</u> , Exhibit A, for pdf document. (Entered: 11/18/2013)
11/18/2013	<u>1</u>	Conflict Check run. (RCB) (Entered: 11/18/2013)
11/18/2013	<u>5</u>	FRCP 7.1 DISCLOSURE STATEMENT by West Chester Medical Center identifying Corporate Parent UC Health for West Chester Medical Center.. (Metzger, James) (Entered: 11/18/2013)
12/11/2013	<u>6</u>	MOTION to Remand by Mona Eder, Mona Eder, Mona Eder (Attachments: # <u>1</u> Memorandum in Support Memorandum, # <u>2</u> Proposed Order Proposed Order, # <u>3</u> Exhibit Exhibit 1 – Missing State Court Record, # <u>4</u> Exhibit Exhibit 2 – Order of Judge Bertelsman)(Shore, Jesse) (Entered: 12/11/2013)
01/02/2014	<u>7</u>	RESPONSE to Motion re <u>6</u> MOTION to Remand by Mona Eder, Mona Eder, Mona Eder filed by West Chester Medical Center. (Metzger, James) (Entered: 01/02/2014)
01/16/2014	<u>8</u>	NOTICE by Mona Eder, Mona Eder <i>Substitution of Counsel</i> (Roach, Christopher) (Entered: 01/16/2014)
01/16/2014	<u>9</u>	Proposed Agreed Order/Stipulation <i>Exteding date to file Reply in Support of Remand to January 23, 2014</i> by Mona Eder, Mona Eder. (Roach, Christopher) (Entered: 01/16/2014)
01/17/2014	<u>10</u>	ORDER re <u>8</u> Notice filed by Mona Eder: It is ordered that the Notice of Substitution construed by the Court as an Entry of Appearance by Attorney Christopher Roach is hereby noted. If Attorney Shore wishes to withdraw from this matter, he should file a motion under Local Rule

		83.6(a) or 83.6(b). Signed by Magistrate Judge Candace J. Smith on 01/17/2014.(TED)cc: COR (Entered: 01/17/2014)
01/17/2014	<u>11</u>	AGREED ORDER re <u>6</u> MOTION to Remand by Mona Eder, Mona Eder, Mona Eder filed by Mona Eder: It is ordered that the Plaintiff shall have until 1/23/2014 to file her reply in support of remand. Signed by Magistrate Judge Candace J. Smith on 01/17/2014.(TED)cc: COR (Entered: 01/17/2014)
01/23/2014	<u>12</u>	REPLY to Response to Motion re <u>6</u> MOTION to Remand by Mona Eder, Mona Eder, Mona Eder filed by Mona Eder. (Roach, Christopher) (Entered: 01/23/2014)
01/24/2014	<u>11</u>	***MOTION SUBMITTED TO CHAMBERS of JUDGE BUNNING for review: re MOTION for Joinder by Mona Eder (included state court record), <u>6</u> MOTION to Remand by Mona Eder, Mona Eder, Mona Eder (TED) (Entered: 01/24/2014)
01/28/2014	<u>13</u>	NOTICE by West Chester Medical Center <i>Withdrawal of James B. Metzger as Counsel</i> (Metzger, James) (Entered: 01/28/2014)
01/28/2014	<u>14</u>	MOTION to Withdraw as Attorney by Mona Eder Motions referred to Candace J. Smith. (Attachments: # <u>1</u> Proposed Order)(Shore, Jesse) (Entered: 01/28/2014)
01/29/2014	<u>11</u>	***FILE SUBMITTED TO CHAMBERS of MAGISTRATE SMITH for review: <u>13</u> Notice of withdrawl of Metzger as counsel and ***MOTION SUBMITTED TO CHAMBERS of MAGISTRATE SMITH for review: re <u>14</u> MOTION to Withdraw as Attorney by Mona Eder (TED) (Entered: 01/29/2014)
01/30/2014	<u>15</u>	ORDER: It is ordered <u>14</u> Motion to Withdraw as Attorney by Jesse Alexander Shore is GRANTED. Attorney Shore's designation on the case docket as counsel for plaintiff shall be termed by the Court Clerk and he shall be removed from the case service list. Signed by Magistrate Judge Candace J. Smith on 01/30/2014. (TED)cc: COR (Entered: 01/30/2014)
01/30/2014	<u>16</u>	ORDER re <u>13</u> Notice of Withdrawal filed by West Chester Medical Center: It is ordered that the Notice of Withdrawal <u>13</u> construed by the Court as a motion to withdraw, is hereby taken under advisement pending counsel's filing within 10 days of a supplemental filing that confirms the construed motion to withdraw has been served on the client. Signed by Magistrate Judge Candace J. Smith on 1/30/2014.(TED)cc: COR (Entered: 01/30/2014)
01/30/2014	<u>17</u>	NOTICE by West Chester Medical Center re <u>16</u> Order, <i>Notice of Service of Motion to Withdraw Counsel</i> (Attachments: # <u>1</u> Exhibit Notice of Withdrawal of Counsel)(Metzger, James) (Entered: 01/30/2014)
01/31/2014	<u>11</u>	***FILE SUBMITTED TO CHAMBERS of MAGISTRATE SMITH for review: <u>17</u> Notice of service (TED) (Entered: 01/31/2014)
02/04/2014	<u>18</u>	SUPPLEMENTAL MOTION to Withdraw as Attorney by West Chester Medical Center Motions referred to Candace J. Smith. (Paliobeis, Bill) (Entered: 02/04/2014)
02/05/2014	<u>19</u>	VIRTUAL ORDER: granting <u>18</u> construed Motion to Withdraw of Attorney James B. Metzger, Jr., the requirements of Joint Local Rule 83.6(b) having been shown based upon the construed motion <u>13</u> and the additional Notice of Service <u>17</u> filed by Attorney Metzger and the Supplement to Notice <u>18</u> filed by Attorney Paliobeis. The Clerk may term attorney Metzger as co-counsel of record on the case docket and remove him from the service list. Signed by Magistrate Judge Candace J. Smith on 2/4/2014. (TED)cc: COR (Entered: 02/05/2014)
05/13/2014	<u>11</u>	MOTIONS REFERRED: MOTION for Joinder by Mona Eder, <u>6</u> MOTION to Remand by Mona Eder, Mona Eder, Mona Eder Motions referred to Candace J. Smith. (per chambers) (TED) (Entered: 05/13/2014)

09/15/2014	<u>20</u>	MEMORANDUM ORDER: It is ordered 1) Plaintiff Eder's <u>6</u> Motion to Remand is denied; 2) Plaintiff Eder's motion for joinder of additional parties (R. 1-1, at 55) is hereby granted. Dr. Abubakar Atiq Durrani, The Center for Advanced Spine Technologies, Inc. and UC Health are hereby joined as defendants to this case. Plaintiff's counsel shall contact the Clerk's Office regarding issuance of service of process for Plaintiff's (Counter)claims against these joined defendants. Signed by Magistrate Judge Candace J. Smith on 09/15/2014. (TED)cc: COR (Entered: 09/15/2014)
09/15/2014	<u>21</u>	ORDER: It is ordered 1) Motion to dismiss by Dr. Abubakar Atiq Durrani and Center for Advanced Spine Technologies, Inc. (Doc. #1-1 at 21) is denied as moot; 2) Motion to dismiss by UC Health (Doc #1-1 at 25) is denied as moot; 3) Motion to dismiss Defendant West Chester Medical Center (Doc #1-1 at 25) is denied without prejudice. Within 21 days of this order, Defendant West Chester Medical Center shall file its Answer or otherwise plead to Eder's Counterclaim, which counterclaims are now recast as the claims of the realigned Plaintiff, Mona Eder.. Signed by Judge David L. Bunning on 09/15/2014.(TED)cc: COR (Entered: 09/16/2014)
10/06/2014	<u>22</u>	MOTION to Dismiss for Lack of Jurisdiction by UC Health, West Chester Medical Center (Attachments: # <u>1</u> Exhibit A – Affidavit of Paula Hawk)(Paliobeis, Bill). Added MOTION to Transfer Venue on 10/7/2014 (TED). (Additional attachment(s) added on 10/13/2014: # <u>2</u> Proposed Order) (ECO). (Entered: 10/06/2014)
10/07/2014	<u>I</u>	NOTICE OF DEFICIENCY TO Bill Paliobeis re <u>22</u> MOTION to Dismiss for Lack of Jurisdiction by UC Health, West Chester Medical Center ; Attorney failed to submit a proposed order as an electronic attachment to the motion. Entry by attorney; <u>Within 7 calendar days</u> , prepare a pleading entitled "Notice of Filing" (with a certificate of service), file the Notice using the event "Notice of Filing", attach the proposed order and create a link to the related docket entry. cc: COR (TED) (Entered: 10/07/2014)
10/08/2014	<u>23</u>	NOTICE of Appearance by Robert A. Winter, Jr on behalf of Mona Eder (Winter, Robert) (Entered: 10/08/2014)
10/10/2014	<u>24</u>	NOTICE OF FILING by UC Health, West Chester Medical Center re <u>22</u> MOTION to Dismiss for Lack of Jurisdiction by UC Health, West Chester Medical Center MOTION to Change Venue (Attachments: # <u>1</u> Proposed Order)(Paliobeis, Bill) (Entered: 10/10/2014)
10/30/2014	<u>25</u>	JOINT MOTION to Change Venue by Atiq Durrani, Mona Eder, The Center for Advanced Spine Technologies, Inc., UC Health, West Chester Medical Center (Attachments: # <u>1</u> Proposed Order)(Paliobeis, Bill) (Entered: 10/30/2014)
10/31/2014	<u>I</u>	***MOTION SUBMITTED TO CHAMBERS of JUDGE BUNNING for review: re <u>25</u> JOINT MOTION to Change Venue by Atiq Durrani, Mona Eder, The Center for Advanced Spine Technologies, Inc., UC Health, West Chester Medical Center (TED) (Entered: 10/31/2014)
10/31/2014	<u>26</u>	ORDER GRANTING JOINT MOTION TO TRANSFER VENUE: <u>25</u> JOINT MOTION to Change Venue GRANTED; <u>22</u> MOTION to Dismiss for Lack of Jurisdiction DENIED AS MOOT; CASE TRANSFERRED to USDC/OHSD. Signed by Judge David L. Bunning on 10/31/2014.(SKV)cc: COR (Entered: 10/31/2014)